

FILED

JUN 17 2008 *sent*

MOTION UNDER 28 U.S.C. SECTION 2255
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

MOTION TO VACATE, SET ASIDE, OR CORRECT SENTENCE BY
A PERSON IN FEDERAL CUSTODY

UNITED STATES

v.

Quincy Hubbard #30005-424
(Full name and prison number of
movant)

08 C 50105

CASE NO. _____
(To be supplied by clerk)

JUDGE REINHARD

IF THE MOVANT HAS A SENTENCE TO BE SERVED IN THE FUTURE UNDER
A FEDERAL JUDGMENT WHICH HE WISHES TO ATTACK, HE SHOULD FILE
A MOTION IN THE FEDERAL COURT WHICH ENTERED THE JUDGMENT.

1. Place of detention, or if on parole, date of parole release
Oxford Federal Correctional Institution.
2. Name and location of court which sentence was imposed and name
of judge who imposed the sentence which is now under attack.
United States District Court For The Northern District
Philip G. Reinhard U.S. District Judge

3. Date of judgment of conviction: October 13, 08
4. Case number: 05CR50055
5. Length of sentence: 294 Months
6. Nature of offense involved (all counts): Count 1: Possession
With Intent to Distribute Cocaine Base. Count 2: Felon In
Possession.
7. What was your plea? (check one)
- (A) Not guilty ()
- (B) Guilty (☒)
- (C) Nolo Contendere ()
8. Kind of trial: (check one)
- (A) Jury ()
- (B) Judge only (☒)
9. Did you testify at the trial?
- Yes () No (☒)
10. Did you appeal from the judgment of conviction?
- Yes (☒) No ()
11. If you did appeal, answer the following:
- (A) Name of court U.S. Court Of Appeals For The Seventh Circuit
- (B) Result They didn't give me an appeal because my lawyer filed a Anders Brief
- (C) Date of result June 07
12. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications or motions with respect to this judgment in any federal court?
- Yes () No (☒)

13. If your answer to (12) was "YES," give the following information:

- (A) (1) Name of court_____
- (2) Nature of proceeding_____
- (3) Grounds Raised_____
- _____
- (4) Did you receive an evidentiary hearing on your petition, application or motion?
- Yes () No ()
- (5) Result_____
- (6) Date of result_____

(B) As to any second petition, application or motion, give the same information:

- (1) Name of the court_____
- (2) Nature of proceeding_____
- (3) Grounds Raised_____
- _____
- (4) Did you receive an evidentiary hearing on your petition, application or motion?
- Yes () No ()
- (5) Result_____
- (6) Date of result_____

(C) As to any third petition, application or motion, give the same information:

- (1) Name of the court_____
- (2) Nature of proceeding_____
- (3) Grounds Raised_____
- _____

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ()

No ()

(5) Result _____

(6) Date of result _____

(D) Did you appeal, to an appellate federal court having jurisdiction, the result of action taken on any petition, application or motion?

(1) First petition, etc. Yes () No ()

(2) Second petition, etc. Yes () No ()

(3) Third petition, etc. Yes () No ()

(E) If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you did not:

14. State concisely every ground on which you claim that you are being held unlawfully. Summarize briefly the facts supporting each ground. If necessary, you may attach pages stating additional grounds and facts supporting same.

CAUTION: IF YOU FAIL TO SET FORTH ALL GROUNDS IN THIS MOTION, YOU MAY BE BARRED FROM PRESENTING ADDITIONAL GROUNDS AT A LATER DATE.

A. Ground one The officers used bad faith in this case because the C.I. Mark Burkes is not a reliable source.

Supporting FACTS (tell your story briefly without citing cases or law):

The officers, Douglas M. Pann and Detective Boss has worked with the same C.I., Mark Burkes, on several other cases. Which they're cases was thrown out of the Winnebago Court rooms because of the fake testimony of Mark Burkes. They never said if the C.I. is reliable or not when they went under oath.

- B. Ground two The government argued that the affidavit established "J" & "Q" had been involved in cocaine distribution for at least a year prior to issuance of warrant

Supporting FACTS (tell your story briefly without citing cases or law):

The affidavit provided false information that was given under oath. I, Quincy Hubbard, was in I.D.O.C from February 2001 - July 20, 04. That clearly shows I could have been selling drugs to the C.I. And Jesse was also in & out of Jail a year up to the issuance of the warrant. And he was locked up in Winnebago County Jail from 10/14/04 - 12/11/04 just a month before the debriefing of the informant.

- C. Ground three The government further argued that the affidavit established that a continuing course of drug trafficking from that residence "for a period of more than one year."

Supporting FACTS (tell your story briefly without citing cases or law):

My wife, my child & myself didn't move into the residence until November 1, 2005 and not a day sooner. That's 3 months till the debriefing of the witness. So how was I selling drugs with them for more than a year.

Ground four Violation of Sixth Amendment Right Of Effective Assistance Of Counsel

Supporting FACTS (tell your story briefly without citing cases or law:

Counsel Jazwiec was ineffective with going over the warrant and challenging the facts from the affidavit, which shows with all the evidence I produced showing the officers and C.I. are bogus and acted out of bad faith. Furthermore I ask my lawyer over & over to check on these things, but he never did.

15. If any of the grounds listed in 14 A, B, C, and D were not previously presented, state briefly what grounds were not so presented, and give your reasons for not presenting them:

All of these grounds wasn't presented, because of my lawyer. I told him these things and even told him about the bogus C.I. But he continued to blow me off and wouldn't let me speak in court. And he waived my rights for a discovery hearing. I didn't give him the right to do so. I didn't do but no discovery hearing until the Judge asked him did we want one. And my lawyer said no. If I've known that we could've argued every thing.

16. Do you have any petition or appeal now pending in any court as to the judgment under attack? Yes () No (✓)

(A) If "YES," state the name of the court and the nature of the proceeding: _____

17. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

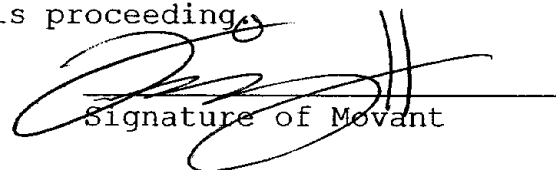
(A) At preliminary hearing Gleason J. Jazwiec (Retired)
100 East Chicago Street, Suite 504 Elgin, Ill 60120

(B) At arraignment and plea Gleason Jazwiec

- (C) At trial Glen Jazwiec
- (D) At sentencing Glen Jazwiec
- (E) On appeal A Brian Threlkeld
- (F) In any post-conviction proceeding _____
- (G) On appeal from any adverse ruling in a post-conviction proceeding _____
18. Were you sentenced on more than one count of an indictment, or more than one indictment, in the same court and at approximately the same time? Yes (☒) No (☐)
19. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack? Yes (☐) No (☒)
- (A) If so, give the name and location of the court which imposed the sentence to be served in the future: _____
- (B) And give the date and length of sentence to be served in the future: _____

WHEREFORE, movant prays that the Court grant him all relief to which he may be entitled in this proceeding.

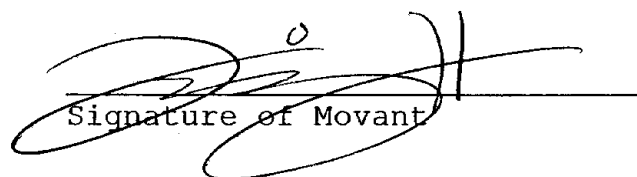
Signature of attorney (if any)



Signature of Movant

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 24, 08
(date)



Signature of Movant

OM0SM008 ILLINOIS DEPARTMENT OF CORRECTIONS -- OTS 9/16/ 4
 PAGE: 0001 SCHEDULED MVMT -- CUSTODY HISTORY INQUIRY 17:11:45

IDOC#: B60588 HUBBARD, QUINCY 3 A L DISTRICT 2 07/20/2004
 SEX REGISTRY: PROJ DISC DATE: 07/20/2007
 PARENT INST: ROBINSON
 BIRTHDATE: 12 17 1976 SSN: 349682876 DCN1: L23660694
 FBI: 376782TA6 BOI: 32799190 IR: 1077683
 ---DATE--- -TIME- ---MOVEMENT/ADMS TYPE- -FROM- -TO- --PARENT INSTITUTION---

07 20 04 09:00 PAROLE OUT	ROB 002 ROBINSON
02 07 01 20:55 ADMIT IN	RTC PAR JOL JOLIET
12 06 00 08:41 PAROLE OUT	VAN 002 VANDALIA
10 05 00 10:38 ADMIT IN	DR ADM JOL JOLIET
04 13 97 09:25 DISCHARGE OUT	PS1 EXP VIENNA
04 13 95 12:52 PAROLE OUT	DSB 110 VIENNA
10 21 94 12:09 ADMIT IN	DFC ADM JRC JOLIET

NEXT KEY DATA: IDOC #: B60588
 PF7: PAGE BACK PF8: PAGE FWD
 INQUIRY COMPLETE

PLEASE ENTER NEXT KEY DATA

(Exhibit A)
 Clearly Shows that Quincy Hubbard was in
 I.D.O.C the year Mark Berkes claims he was
 buying drugs from Hubbard. Which the arresting
 Officers swore under oath. The officers also Violated
 by not going over and making sure all the C.I.
 information was true.

Name HUBBARD, JESSE NMN

Master ID# 98904

cell

SELECT RECORD: . . .

S#	Booking Date	Booking Time	Booking Number	Release Date	Release Time	Sts	Jail Days	Time Hours	Wrk Rel
1	3/15/05	9:11	05-0267658	9/08/05	2:15	R	176	17.0	
2	1/19/05	16:50	05-0265305	1/19/05	20:17	R		3.0	
3	10/14/04	11:16	04-0261310	12/11/04	6:47	R	57	19.5	
4	9/13/04	4:59	04-0259928	9/13/04	7:58	R		2.5	
5	5/26/04	11:00	04-0254751	7/24/04	14:29	R	59	3.0	
6	1/13/04	37	04-0248681	1/13/04	10:07	R		9.5	
7	4/14/03	18:43	03-0236583	4/14/03	21:50	R		3.0	
8	3/16/03	22:51	03-0235287	3/17/03	1:14	R		2.0	
9	2/20/03	17:17	03-0234275	3/06/03	6:40	R	13	13.0	
10	1/08/03	22:30	03-0232428	1/09/03	25	R		1.5	
11	10/19/01	21:30	01-0212763	10/19/01	22:26	R		.5	
12	7/15/00	1:36	00-0192685	11/02/00	5:00	R	110	3.0	

ROLL UP/ROLL DOWN
F3=Exit

More...
F11=Jail Time View F12=Previous

(Exhibit B)

Clearly shows that Jesse Hubbard was in east of Winnebago's County Jail during the time the C.I. claims that Hubbard was selling drugs. And it also shows that the debriefing that took place in February with the officers & C.I., which the C.I. says he brought drugs from Hubbard for at least a year was bogus. Hubbard was released from jail 12/11/04. Two months before the debriefing and he was in custody 57 days before then. Once again the officers violated by not making sure the C.I., which have given false information before, stories was true.

Charity shows that Angelique Kirk (Hubbard's wife)
 didn't move in the house till Nov 1, 04. Has
 could Hubbard possibly been selling
 days with there for at least a year
 before arrest

**ASSISTED LEASE AGREEMENT
 RENTAL HOUSING CHOICE VOUCHER PROGRAM**

Voucher No: 000110
 No. of Bedrooms: 3

THIS LEASE AGREEMENT is made and entered into **November 1, 2004** by and between **Dwayne Allen** (Landlord) and **Angelique N Kirk** (Tenant) whose HOUSEHOLD consists of the following members:

Name	Sex	Date of Birth	Social Security Number
Angelique N Kirk	F	9/3/1980	393-86-4182
O'unique L Hubbard	F	12/12/2000	323-98-7271

for the dwelling unit **721 8TH AVE. , Rockford, IL 61104**. The total monthly rent for this dwelling unit will be **\$450.00** per month. Of this amount, **\$400.00** per month will be payable by the Public Housing Authority (PHA) as housing assistance payments on behalf of the Tenant, and **\$50.00** per month shall be payable by the Tenant ("tenant rent") directly to the Landlord. The rent is due on the 1st day of the month beginning on **November 1, 2004**. The Tenant has deposited \$ 450.00 with the Landlord as a security deposit.

Additionally, it is agreed that this Assisted Lease Agreement is attached hereto and incorporated herein inclusive of three attached pages of the Tenancy Addendum, Section 8 Tenant-Based Assistance, Housing Choice Voucher Program, form HUD-52641-A.

1. Term of Lease

The initial lease term begins on **November 1, 2004** and ends on **October 31, 2005**. Following the initial term, the Lease will be renewed automatically on a month-to-month basis until: (1) a termination of the Lease by the Landlord in accordance with paragraph 8 of the Tenancy Addendum, HUD-52641-A, (2) a termination of the Lease by the Tenant in accordance with the Lease or by mutual agreement during the term of the Lease, (3) a termination of the Housing Assistance Payments by the PHA, or (4) the PHA terminates assistance for the family.

2. Utilities and Appliances and Other Services of Contract Unit

(a) The Landlord/owner shall provide or pay for the utilities and appliances indicated below by an "O", without any additional charge to the Tenant. The tenant shall provide or pay for the utilities and appliances indicated below by a "T".

Item	Specify fuel type	Provided by	Paid by
Heating	Natural Gas		

Ineffective Assistance Of Counsel (Ground Four)

Counsel rendered ineffective assistance of counsel in violation of the sixth amendment where he denied my rights for a discovery hearing and when he refused to go over all the evidence that the government brought forward in the affidavit of the warrant. Counsel refused to cross examine the C.I. or even did any kind of research on him to see if he was a credible C.I.

Counsel also refused to check on if I occupied the house where the government argued that I was selling drugs out of for at least a year prior to the search. He failed to look into any of the evidence the government produces.

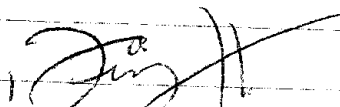
Counsel's performance was deficient under prevailing professional standards; and that, because of counsel's deficient performance, the defendant was prejudiced in a way which denied him the right to a fair trial.

Request For Evidentiary Hearing

Movant is entitled to an evidentiary hearing in order to present evidence that his counsel never brought up and for never informing him of the legal ramifications before he gave up movant's right for a evidentiary hearing.

A hearing is necessary to establish that movant did not knowingly or voluntarily waive his rights for a hearing. Movant is entitled to another motion to suppress hearing because counsel didn't and refused to go over all the evidence. The evidence the government used to argue that it was a ongoing criminal enterprise and that they had reason to believe that probable cause would still exist after 8 days of issuance of warrant couldn't easily be argued if Counsel would've taken time and investigated professionally.

Because movant alleged credible, nonconclusory evidence that he was denied effective assistance of counsel at motion hearing he is entitled to a hearing.

Respectfully Submitted, 

08C50105

660-261-1130

PROCEIVED

Clark of the United States
District Court Northern District
of Illinois 219 South Park
Street Chicago IL 60604

